

SO ORDERED.

Dated: February 8, 2021



Eddward P. Ballinger Jr., Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In Re:

SUSAN SIMPSON,

Debtor,

Chapter 13 Proceeding

Case No: 2:20-bk-02088-EPB

**NEW HORIZONS ROTH 401K PROFIT
SHARING PLAN, BRAD GILBERSTON
AS TRUSTEE,**

Movant,

**ORDER AS TO NEW HORIZON'S MOTION
TO LIFT AUTOMATIC BANKRUPTCY
STAY OR REQUEST FOR ADEQUATE
PROTECTION**

v.

AND

**SUSAN SIMPSON AND DARWIN
SIMPSON, a married couple,**

Respondents.

**ORDER AS TO ALLOWANCE OF NEW
HORIZON'S PROOF OF CLAIM**

AS AMENDED BY THE COURT

RE: 5320 E. THUNDER HAWK RD.

CAVE CREEK ARIZONA

Upon the Stipulation of Movant New Horizons Roth 401K Profit Sharing Plan,
Brad Gilbertson as Trustee ("New Horizons"), and Debtor Susan Simpson "Simpson"),
by and through their respective attorneys and good cause shown,

1 **Recitals**

2 1. This Stipulation concerns the real property at 5320 E. Thunder Hawk Road,
3 Cave Creek, Arizona which is Debtor's Residence ("the Residence").

4 2. New Horizons filed a Motion to Lift the Automatic Bankruptcy Stay or Request
5 for Adequate for Protection. [Docket # 40].
6

7 3. Debtor objected to New Horizons' Proof of Claim on July 1, 2020. [Docket
8 #52].

9 **IT IS ORDERED as to New Horizon's Motion to Lift Automatic Bankruptcy Stay**
10 **or Request for Adequate Protection as follows:**

11 1. Debtor Susan Simpson will make the regular post-petition payment due to
12 New Horizons commencing September 1, 2020 as a conduit payment through the
13 Chapter 13 Trustee in this case. Debtor shall remain current all post-petition
14 payments as of September 1, 2020. Missed post-petition payments shall be made
15 through the Chapter 13 Plan as part of the Proof of Claim of New Horizons as
16 described below.
17

18 2. Debtor Susan Simpson will make the regular post-petition payment due to
19 Chase commencing February 1, 2020 as a conduit payment through the Chapter 13
20 Trustee in this case.

21 3. Upon request of New Horizons, Debtor shall provide proof of making post-
22 petition payments to Chase

23 4. Should the Debtor fail to timely perform any of the obligations set forth in this
24 **shall**
25 Stipulation, Movant ~~may~~ notify Debtor and their counsel of the default in writing.
26 Debtor shall have ten (10) calendar days from the date of the written notification to
27 cure the default and to pay an additional \$100.00 for attorneys' fees for each
28

1 occurrence. An additional \$175.00 will also be due if court certification of the default **is**
2 required.

3 5. Should the Debtor fail to timely cure the default or in the event that Debtor's
4 case is converted to a Chapter 7 case, Movant may file a Declaration of Default and
5 **a proposed**
6 lodge ~~an~~ Order Terminating the Automatic Stay. The Order may be entered without
7 further hearing or proceeding. The automatic stay may be immediately terminated and
8 extinguished for all purposes as to Movant and Movant may proceed with **any state**
9 law remedies available to Movant, ~~including but not limited to foreclosure and forcible~~
10 ~~entry and detainer, pursuant to applicable state law without further Court order or~~
11 ~~proceeding being necessary.~~

12 **IT IS FURTHER ORDERED as to New Horizons' Proof of Claim as follows:**

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14 New Horizons' Proof of Claim shall be treated as secured in the amount of
15 \$70,000.00, which includes pre-petition and post-petition arrearages due to New
16 Horizons through the date of this Stipulation, and also this amount includes by
17 agreement, all default interest, late fees and New Horizons' attorney's fees and costs,
18 due to the date of this stipulation, post-petition. As long as all terms of this stipulation
19 are complied with, the \$70,000.00 will apply and be paid under the Debtor's confirmed
20 Chapter 13 plan. If Debtor defaults and stay relief is granted or if the case is
21 converted as set forth herein, this agreement for treatment of New Horizons' proof **of**
22 claim will become null and void and the original payment terms of the loan and loan ~~or~~
23 documents will again apply as if the bankruptcy was never filed.
24
25

26 **DATED AND SIGNED ABOVE**
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